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10/731,038	12/09/2003	Lisa C. Tidwell	020375-041300US	6744
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/731,038

Applicant(s)

TIDWELL ET AL.

Examiner

HAO FU

Art Unit

3696

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-16, 27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-16, 27 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Remarks

In the remarks, filed on 07/31/2008, the applicant amended claims 1, 4, 8, and 13, while cancelling claims 12 and 17-26. Claims 27 and 28 have been added.

The main argument of the applicant in this remarks is that none of the cited prior art teach the newly added feature, "assigning a positive pay category and determining a positive pay risk score based at least in part on the positive pay category". However, utilizing positive pay information and determining positive pay risk score as part of check verification process were known prior to the present invention. An additional prior art is provided as evidence. Therefore, the present claims are still not in the condition of allowance.

Claim Rejection 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-7 and 13-16, and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belyi et al. (Pub. No.: US 2005/0080717) in view of US Patent No.: 7,257,246 to Brodie et al., and Volgunin (Pub. No.: US 2003/0172030).

As per claim 1, Belyi teaches a method of scoring risk associated with cashing a check, the method comprising:

receiving information about a check presented to an entity for cashing (see paragraph 0011 and 0031);

accessing stored positive pay information about issued checks wherein said positive pay information indicates whether a check issuer is willing to honor the presented check (see paragraph 0032 and 0045); and

Examiner notes however, Belyi teaches receiving information about a first party check and accessing stored positive pay information about issued "first party check". As such, Belyi fails to teach applying the procedure on "second party check," which is a check written by a first party and presented to an entity for cashing by a second party other than the first party check writing entity. Further more, Belyi fails to teach assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

Brodie teaches receiving information about a check presented to an entity for cashing (see abstract and column 10, line 4-11; also see column 9, line 23-29, which teaches creating a positive pay file for one or more payroll checks; a payroll check is a second-party check). Therefore, Brodie teaches receiving information about a check written by a first party and presented to an entity for cashing by a second party other than the first party check writing entity;

accessing stored positive pay information about issued checks wherein said positive pay information indicates whether a check issuer is willing to honor the presented check so as to reimburse an entity who has provided cash in return for accepting the check (see column 13, line 41-60; Brodie discloses that the presented check is a payroll check, which is written by an entity other than the check presenter or a so called "second-party check");

determining a risk score associated with cashing the presented check based at least in part on the positive pay information (see column 2, line 51-60);

more importantly, Brodie specifically discloses that the checks handled by the invention include payroll check (see column 9, line 24-29); payroll check is clearly a "second-party check", which is a check that is written by one party for cashing by another party.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include receiving information about a check presented to an entity for cashing by an entity other than the check writing entity; accessing stored positive pay information about issued checks wherein said positive pay information indicates whether a check issuer is willing to honor the presented check so as to reimburse an entity who has provided cash in return for accepting the check; and determining a risk score associated with cashing the presented check based at least in part on the positive pay information.

One of ordinary skill in the art would have been motivated to modify the reference in order to provide risk assessment for merchant or financial institution to determine whether to accept the second-party check.

Examiner notes that Belyi does not explicitly teach assigning a positive pay category based on a comparison of the stored positive pay information and the received information about the check; and

determining a positive pay risk score associated with cashing the presented check based at least in part on assigned the positive pay category.

Volgunin teaches assigning a positive pay category based on a comparison of the stored positive pay information and the received information about the check (see paragraph 0023-0024 and 0040 for receiving check information by scanning and extracting information from the check; see paragraph 0043 for assessing stored positive pay information and comparing check information against issued check information or positive pay information; see paragraph 0019, 0022, and 0045, prior art shows the comparison results "YES" or "NO" match between the check information and the stored positive pay information); and

determining a positive pay risk score associated with cashing the presented check based at least in part on assigned the positive pay category (see paragraph 0025, 0026, 0044-0046, prior art teaches producing a similarity value or confidence value, which is an indicator of confidence that the check information matches the stored issued check file or positive pay information).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include assigning a positive pay category based on a comparison of the stored positive pay information and the received information about the check; and determining a positive pay risk score associated with cashing the presented check based at least in part on assigned the positive pay category. One of ordinary skill in the art would have been motivated to modify the reference in order to raise the security level of accepting a proffered check.

As per claim 2, Belyi teaches wherein receiving information about the presented check comprises receiving at least one of the set consisting of: bank number, account number, check number, check issue date, check amount, payee identifier, and payor identifier (see paragraph 0031 and 0032).

As per claim 3, Belyi teaches wherein receiving information about the presented check comprises receiving information obtained from a magnetic ink character recognition (MICR) line on the check (see paragraph 0030 and 0031, "magnetic check reader").

As per claim 4, Belyi teaches wherein the positive pay risk score corresponds to a graduated level of confidence that the check will be honored by the check issuer (see paragraph 0013 and paragraph 0031, "transmitted information" mentioned in paragraph

0013 includes "positive pay information" described in paragraph 0031).

As per claim 5, Belyi teaches wherein determining a risk score associated with cashing the presented check comprises determining a transaction risk score that is based at least in part on the positive pay risk score (see paragraph 0013 and paragraph 0031).

As per claim 6, Belyi teaches wherein determining the transaction risk score is further based at least in part on additional information associated with cashing the presented check (see paragraph 0032 and 0033).

As per claim 7, Belyi teaches wherein determining the transaction risk score based at least in part on additional information comprises determining the transaction risk score based at least in part on at least one of the set consisting of: additional information about the check, information about a check presenter associated with the check, and information about an entity to which the check is presented for cashing (see paragraph 0033).

12 (Canceled).

a point of sale device installed at an entity location, wherein the point of sale device is configured to receive data comprising at least one of: an account identifier, a check number, a check issue date, and an amount associated with a check presented for exchange of the check for valuable consideration, the point of sale device further configured to transfer the data to a check authorization system (see paragraph 0011, "transaction information" include all information suggested in paragraph 0032);

a computer-accessible-storage medium comprising information that associates a plurality of records in a positive pay database with various issued checks (see paragraph 0067); and

a computer processor configured to determine a risk score based at least in part on whether the data associated with the check and received by the point of sale device match a record in the positive pay database, the computer processor further configured to determine based at least in part on the risk score whether to recommend to the entity payment of valuable consideration to a possessor of the check (see paragraph 0013, see "risk assessment component").

Examiner notes however, Belyi does not explicitly teach that the presenting check is a second party check. Further more, Belyi fails to teach assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

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Brodie teaches similar computerized system for second-party check (see abstract and column 9, line 23-29; a payroll check is a second-party check; also see abstract, column 2, line 51-60, column 7, line 1-6, column 9, line 14-29, and column 13, line 39-60).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the computerized system in the reference to determine whether to recommend the payment of a second-party check presented to an entity for processing.

One of ordinary skill in the art would have been motivated to modify the reference in order to provide risk assessment for merchant or financial institution to determine whether to accept the second-party check.

Applicant states that the reason for adding assessing the reliability of the positive pay information and use this information as part of the risk scoring is that positive pay information maybe more reliable in some circumstance or less reliable in other circumstances and that in some circumstances relatively unreliable positive pay information may not necessarily result in the transaction being declined based upon the reliability of other factors that are considered in the risk assessment.

Examiner notes that the concern for the reliability of the positive pay information is known prior to the present invention. The Business Lawyer raises the issue that in some circumstances the positive pay information fails to detect check fraud (see from the bottom of page 4 through page 5). However, The Business Lawyer does not teach assessing the reliability of the positive pay information

Hanna teaches rating or assessing the trustworthiness or reliability of information based upon the source of the information (see paragraph 0027). Hanna also teaches the overall trust rating for the set of credentials is determined based upon the composite trust ratings (see abstract). Evaluating the reliability of information as part of the decision making is old and well known. For example, during war time, information from the spy must be evaluated for its reliability, and the degree of reliability is a factor of risk assessment of the final decision.

Since the reliability issue of the positive pay information was known prior to the invention, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

One of ordinary skill in the art would have been motivated to modify the reference in order to improve the accuracy of check fraud detection.

As per claim 13, Belyi teaches an apparatus that scores risk associated with accepting a check, the apparatus comprising:

a database that stores positive pay information about checks issued by check writers to payees wherein said positive pay information indicates issued checks that check writers are willing to honor (see paragraph 0067 and 0045);

a computer processor configured to receive input about a check presented to an entity by a check presenter claiming to be a payee (see paragraph 0011, see "point of sale device"), the computer processor further configured to use the input to access positive pay information from the database that is associated with the payor of the check (see paragraph 0032, for first party check, the payor is the same as the payee or the "customer", please refer to the next paragraph for further discussion).

Claim 13 is an independent claim, which does not mention about or second-party check at all. The claim language does not suggest the payee is different from the payor even after amendment. Therefore, under examiner's broadest interpretation, the check in this claim covers first-party check as well, in which the payor is the same person as the payee.

Examiner notes however, Belyi does not explicitly teach providing cash to payee in return for accepting the check based at least in part on the positive pay information. Further more, Belyi fails to teach assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

Brodie teaches providing cash to payee in return for accepting the check based at least in part on the positive pay information (see column 13, line 39-67, and column 14, line 1-14).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include providing cash to payee in return for accepting the check based at least in part on the positive pay information.

One of ordinary skill in the art would have been motivated to modify the reference in order to allow check possessor to cash second party check.

Examiner notes that Belyi does not explicitly teach assigning a positive pay category based on a comparison of the stored positive pay information and the received information about the check; and

determining a positive pay risk score associated with cashing the presented check based at least in part on assigned the positive pay category.

Volgunin teaches assigning a positive pay category based on a comparison of the stored positive pay information and the received information about the check (see paragraph 0023-0024 and 0040 for receiving check information by scanning and extracting information from the check; see paragraph 0043 for assessing stored positive pay information and comparing check information against issued check information or positive pay information; see paragraph 0019, 0022, and 0045, prior art shows the comparison results "YES" or "NO" match between the check information and the stored positive pay information); and

determining a positive pay risk score associated with cashing the presented check based at least in part on assigned the positive pay category (see paragraph 0025, 0026, 0044-0046, prior art teaches producing a similarity value or confidence

value, which is an indicator of confidence that the check information matches the stored issued check file or positive pay information).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include assigning a positive pay category based on a comparison of the stored positive pay information and the received information about the check; and determining a positive pay risk score associated with cashing the presented check based at least in part on assigned the positive pay category. One of ordinary skill in the art would have been motivated to modify the reference in order to raise the security level of accepting a proffered check.

As per claim 14, Belyi teaches wherein the database further stores information about issued checks that check writers are not willing to honor (see paragraph 0023).

As per claim 15, Belyi teaches wherein the computer processor is located at a check authorization system and the database is located at a financial entity external to the check authorization system (see paragraph 0011 and 0067, "external database").

As per claim 16, Belyi teaches wherein the computer processor is located at a check authorization system and the database is located at the check authorization system.

17-26 (Canceled).

As per claim 27, Belyi suggests wherein determining the transaction risk score comprises integrating the positive pay risk score with at least one other variable risk score associated with the transaction (see paragraph 0013, 0031-0033; prior art teaches evaluating multiple information to determine the final transaction risk score; it would have been obvious to one of ordinary skill in the art to assign a confidence value to each information as shown in Volgunin).

As per claim 28, Belyi does not teach wherein the positive pay category is selected from a group consisting of: "match"; "no match"; "item paid"; "item stopped"; "item voided"; and "data unavailable".

Volgunin teaches wherein the positive pay category is selected from a group consisting of: "match"; "no match"; "item paid"; "item stopped"; "item voided"; and "data unavailable" (see paragraph 0019-0028 and 0045; prior art teaches assigning at least YES or NO in terms of matching between check information and positive pay information; the rest of the variation is obvious to one of ordinary skill in the art).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include this feature. In light of KSR decision, use of known technique to improve similar devices (methods, or products) in the same way would have been obvious to one of ordinary skill in the art.

Claim 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belyi et al. (Pub. No.: US 2005/0080717) in view of US Patent No.: 7,257,246 to Brodie et al. and Volgunin (Pub. No.: US 2003/0172030), and further in view Engel et al. (Pub. No.: US 2004/0138975).

As per claim 8, Belyi teaches a computerized method for determining whether to authorize payment of a second-party check presented to an entity for processing, the method comprising:

obtaining with a point of sale device installed in an entity location data comprising at least one of: an account identifier, a check number, a check issue date, and an amount associated with a check presented for processing (see paragraph 0011 and 0032);

transmitting the data to a check authorization system (see paragraph 0011);

identifying at the check authorization system which of a plurality of positive pay databases is associated with the check (see paragraph 0038);

determining based at least in part on the risk score whether to authorize payment of the check (see paragraph 0057); and

transmitting a recommendation indicative of the authorization determination to the entity (see paragraph 0057).

Examiner notes however, Belyi fails to teach accessing the identified positive pay database associated with the second-party check and comparing the transmitted data and information stored in the positive pay database; and determining a risk score based at least in part on the comparison. Further more, Belyi fails to teach assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

Engel et al. teaches accessing the identified positive pay database associated with the check and comparing the transmitted data and information stored in the positive pay database (see paragraph 0031 and 0032); and

Brodie teaches similar procedures as above for "second-party check". Specifically, Brodie teaches obtaining with a point of sale device installed in an entity location data comprising at least one of: an account identifier, a check number, a check

issue date, and an amount associated with a second-party check presented for processing (see abstract and column 10, line 4-11);

accessing the identified positive pay database associated with the second-party check and comparing the transmitted data and information stored in the positive pay database (see column 13, line 39-60; a payroll check is a second-party check);

determining a risk score associated with accepting the second-party check from a possessor of the check and providing valuable consideration to possessor in return for the second-party check based at least in part on the comparison (see column 2, line 51-60, and see column 9, line 23-29; the invention deals with payroll check, which is second-party check)

It would have been obvious to one of ordinary skill in the art at the time of invention to modify Belyi to include the steps of accessing the positive pay database, comparing the information, determining a risk score based at least in part on the comparison, and using the procedures on second-party check.

One of ordinary skill in the art would have been motivated to modify the reference in order to provide risk assessment for merchant or financial institution to determine whether to accept the second-party check.

Examiner notes that Belyi does not explicitly teach assigning a positive pay category based on a comparison of the stored positive pay information and the received information about the check; and

determining a positive pay risk score associated with cashing the presented check based at least in part on assigned the positive pay category.

Volgunin teaches assigning a positive pay category based on a comparison of the stored positive pay information and the received information about the check (see paragraph 0023-0024 and 0040 for receiving check information by scanning and extracting information from the check; see paragraph 0043 for assessing stored positive pay information and comparing check information against issued check information or positive pay information; see paragraph 0019, 0022, and 0045, prior art shows the comparison results "YES" or "NO" match between the check information and the stored positive pay information); and

determining a positive pay risk score associated with cashing the presented check based at least in part on assigned the positive pay category (see paragraph 0025, 0026, 0044-0046, prior art teaches producing a similarity value or confidence value, which is an indicator of confidence that the check information matches the stored issued check file or positive pay information).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include assigning a positive pay category based on a comparison of the stored positive pay information and the received information about the check; and determining a positive pay risk score associated with cashing the presented check based at least in part on assigned the positive pay category. One of

ordinary skill in the art would have been motivated to modify the reference in order to raise the security level of accepting a proffered check.

As per claim 9, Belyi teaches obtaining with the point of sale device information (see paragraph 0011); and transmitting information to the check authorization system (see paragraph (see paragraph 0011)).

Examiner notes however, Belyi does not specify the transmitted information as "payee information".

Brodie teaches obtaining with the point of sale device information about a payee of the second-party check (see column 5, line 21-32).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify Belyi to obtain payee information with the point of sale device and transmit payee information to the check authorization system.

One of ordinary skill in the art would have been motivated to modify the reference to provide more information for determining risk score.

As per claim 10, Belyi teaches determining whether to authorize payment of the second-party check comprises determining whether to guarantee the check (see paragraph 0026).

Examiner notes however, Belyi does not specifically teach applying such method on second-party check.

Brodie teaches similar method for second-party check (see abstract and column 9, line 23-29; a payroll check is a second-party check).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the references to come up with determining whether to authorize payment of the second-party check comprises determining whether to guarantee the second-party check.

One of ordinary skill in the art would have been motivated to modify the reference in order to apply existing risk assessment method on second-party check.

As per claim 11, Belyi teaches determining whether to authorize payment of the second-party check further comprises determining whether to purchase the check from the entity (see paragraph 0028).

Examiner notes however, Belyi does not specifically teach applying such method on second-party check.

Brodie teaches similar method for second-party check (see abstract and column 9, line 23-29; a payroll check is a second-party check).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the references to come up with determining whether to purchase the second-party check from the entity.

One of ordinary skill in the art would have been motivated to modify the reference in order to apply existing risk assessment method on second-party check.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HAO FU whose telephone number is (571)270-3441. The examiner can normally be reached on Mon-Fri/Mon-Thurs 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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